



STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 324-3828

MEMBER
First District, Kentfield

BRAD SHERMAN
Second District, Los Angeles

ERNEST J. DRONENBURG, JR
Third District, San Diego

MATTHEW K. FONG
Fourth District, Los Angeles

GRAY DAVIS
Controller, Sacramento

BURTON W. OLIVER
Executive Director

June 2, 1993

Dear: ---

This is in reply to your March 1, 1993 letter regarding the application of sales and use tax to charges by The --- for publications under the following facts you provided:

"Periodicals sold by --- a 501(c) (3) organization, are purchased by churches and provided to the members, leaders (teachers) and staff (minister, secretary) of the church. I am enclosing a copy of three different periodicals used by the above mentioned categories. --- is distributed to the general congregation for personal devotional reading, --- --- ---, is used by leaders/teachers to teach grades 3 and 4 in Sunday School and --- is used by ministers in their preaching and worship ministry."

You asked that we assume that the churches which purchase the periodicals for distribution also qualify for tax-exempt status under section 501(c) (3) of the Internal Revenue Code. Given this information, you asked whether the sale and use of the publications by The --- -- are exempt from sales and use tax under Revenue and Taxation Code section 6362.8, which provides in relevant part:

"(a) There are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state, of tangible personal property that becomes an ingredient or component part of any newspaper or periodical regularly issued at average intervals not exceeding three months, or any such newspaper or periodical.

"(b) This section shall apply only with respect to any of the following:

"(1) Any newspaper or periodical that is published or purchased by an organization that qualifies for tax exempt status under Section 501(c) (3) of the Internal Revenue Code and is distributed to the members of the organization in consideration of payment of the organization's membership fee, or to the organization's contributors.

“(2) Any newspaper or periodical that is published by an organization that qualifies for tax exempt status under Section 501(c) (3) of the Internal Revenue Code and does not receive revenue from, or accept, any commercial advertising.”

Each of the publications you sent for our review is published quarterly. Following is our opinion as to each publication.

“---” provides brief daily devotional readings based on selected scripture passages. This Board's legal staff has taken the position that publications such as the ones you sent qualify as exempt periodicals provided each issue contains a significant amount of new material and is published at average intervals not exceeding three months. If they are reissued cyclically without a significant amount of new material, they do not qualify as periodicals. We note that each of nine persons authored approximately ten articles for a total of approximately 90 articles in the quarterly issue of “---.” It appears that each issue of “---” provides new material, rather than material that is cyclically reissued. In such case, we believe that the publication qualifies as a periodical.

Since the churches purchase the periodicals to distribute to members of the church congregations, we believe that your sales of the periodicals to the churches are exempt pursuant to Revenue and Taxation Code section 6362.8, subdivision (b) (1).

The publisher's notice in “---” notes that the --- sells the periodical by subscription. In this regard, Revenue and Taxation Code section 6362.7 provides in relevant part:

“(b) There are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state, of tangible personal property which becomes an ingredient or a component part of any periodical regularly issued at average intervals not exceeding three months, and any such periodical, that is sold by subscription and delivered by mail or common carrier.

“(c) For purposes of this section, 'periodical' means any publication that appears at stated intervals at least four times per year, but not more than 60 times per year, each issue of which contains news or information of general interest to the public, or to some particular organization or group of persons. Each issue must bear a relationship to prior or subsequent issues with respect to continuity of literary character or similarity of subject matter, and there must be some connection between the different issues of the series in the nature of the articles appearing in them. Each issue must be sufficiently similar in style and format to make it evident that it is one of a series. The term does not include printed sales messages, shopping guides, or other publications of which the advertising portion, including product publicity, exceeds 90 percent of the printed area of the entire issue in more than one-half of the issues during any 12-month period.”

If --- sells “---” by subscription and delivers it by mail or common carrier, the sales are exempt under section 6362.7, subdivision (b).

“---” is a guide for Sunday school teachers focused on grades 3 and 4. Again assuming that each issue provides new material, we believe that the publication qualifies as a periodical.

The publisher's notice notes that “--- --- ---” is sold by subscription for \$8.50 a year. Sales of “--- --- ---” by The “--- --- ---” are exempt when sold by subscription and delivered by mail or common carrier. (Rev. & Tax. Code § 6362.7, subd. (b).)

“---” is a pastor's journal for biblical preaching. The copy you sent for our review contains a number of articles of interest to pastors. We believe the publication qualifies as a periodical. Since it is also sold by subscription and contains an advertisement for sales by ---, our response is the same as it is for “---”

We hope this answers your questions; however, if you need further information, feel free to write again.

Very truly yours,

Ronald L. Dick
Senior Tax Counsel

RLD:sr